

ROBERT E. BELSHAW (CABN 142028)
1208 Vincente Street
San Francisco, California 94116
Telephone: (415) 956-9590
Email: rob@belshawlaw.com

Attorney for Plaintiff

MELINDA HAAG (CABN 132612)
United States Attorney
ALEX G. TSE (CABN 152348)
Chief, Civil Division
ABRAHAM A. SIMMONS (CABN 146400)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-7264
FAX: (415) 436-7234
Abraham.simmons@usdoj.gov

Attorneys for Federal Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMERICAN SMALL BUSINESS LEAGUE,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF THE ARMY

Defendant.

Case No. CV 14-2168 VC

**SETTLEMENT AGREEMENT AND
RELEASE**

In consideration of the terms set forth in this Settlement Agreement and the covenants and conditions contained herein (the "Agreement"), Plaintiff American Small Business League (the "Plaintiff") and Defendant U.S. Department of the Army ("Defendant"), by and through their undersigned counsel, hereby agree as follows:

1 WHEREAS, this action, alleging violations of the Freedom of Information Act (“FOIA”),
2 5 U.S.C. § 552, *et seq.*, was filed on May 12, 2014;

3 WHEREAS, Plaintiff’s May 28, 2010 records request upon which this suit is based (hereinafter
4 the “May 28, 2010 FOIA request”) sought two documents alleged to be in possession of the Defendant;

5 WHEREAS, on August 11, 2014, Defendant, produced to Plaintiff a document entitled “Subcon-
6 tracting Report for Individual Contracts” that the Parties agree is responsive to Plaintiff’s request for the
7 first document;

8 WHEREAS, the Parties have agreed that the declaration of Maria Martinez submitted to Plaintiff
9 on December 31, 2014 demonstrates a sufficient good faith search for records responsive to Plaintiff’s
10 request for the second document;

11 WHEREAS, on January 8, 2015, the Court issued an order granting the Parties’ stipulation and
12 proposed order dismissing the merits of this lawsuit and reserving the issue of attorneys’ fees and costs;
13 and

14 WHEREAS, after good faith negotiations, the Parties have agreed to forego any further litigation
15 and to resolve this matter including all claims that were made or could have been made in Plaintiffs’
16 May 12, 2014, Complaint;

17 IT IS HEREBY AGREED AS FOLLOWS:

18 1. Settlement payment. The Parties agree that Defendant shall pay Plaintiffs reasonable attor-
19 ney’s fees in the amount of twenty-five thousand dollars and no cents (\$25,000.00). Payment shall be
20 made as soon as practicable, consistent with the normal processing procedures followed by the Depart-
21 ment of the Army, and the Department of Treasury following the Court’s execution of the order approv-
22 ing this settlement by transmitting an Electronic Funds Transfer (“EFT”) or by a check payable to Client
23 Trust Account, Law Offices of Robert E Belshaw.
24
25
26
27
28

1 2. Release. The Parties agree that upon the execution of this Agreement, Plaintiffs hereby release
 2 and forever discharge Defendant, and its successors, the United States of America, and any department,
 3 agency, or establishment, from any and all claims and causes of action that Plaintiffs asserted or could
 4 have asserted in connection with Plaintiff's May 28, 2010 FOIA request.

5
 6 3. No admission of liability. The Parties acknowledge that this Agreement is entered into solely
 7 for the purpose of settling and compromising any claims in this action without further litigation, includ-
 8 ing any appeals, and avoiding expense and risk of such further litigation. Therefore, this Agreement is
 9 not intended and shall not be construed as an admission by any party of the truth of any allegation or the
 10 validity of any claim asserted in this action. This Agreement shall not be used in any manner to establish
 11 liability for fees, amounts, or hourly rates in any other case or proceeding. In addition, the Parties agree
 12 that none of the facts as alleged in the Complaint filed May 12, 2014, shall be included in any subse-
 13 quent action to serve as the basis for a claim that defendants are or have engaged in a pattern and prac-
 14 tice of violating the Freedom of Information Act or other laws.
 15

16 SO STIPULATED, this 20th day of February, 2015.

17 ROBERT BELSHAW

18 MELINDA HAAG

United States Attorney

19 s/ Robert Belshaw

19 s/Abraham Simmons

20 Robert Belshaw
 21 Attorney for Plaintiff

20 ABRAHAM SIMMONS
 21 Assistant United States Attorney
 22 Attorneys for Federal Defendant